

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

In re: SIMON SHIAO TAM,
Petitioner

2016-121

On Petition for Writ of Mandamus to the United States Patent and Trademark Office in No. 85/472,044.

ON PETITION

Before LOURIE, BRYSON, and MOORE, *Circuit Judges*.
MOORE, *Circuit Judge*.

O R D E R

This court recently held that the United States Patent and Trademark Office (PTO) could not refuse Simon Shiao Tam's application to trademark "THE SLANTS" on the ground that it is disparaging under 15 U.S.C. § 1052(a). *See In re Tam*, 808 F.3d 1321, 1358 (Fed. Cir. 2015) (en banc). Mr. Tam now petitions for a writ of mandamus to instruct the Director of the United States Patent and Trademark Office to publish his application. The Director opposes.

The PTO suspended proceedings in this case until such time that its appeal rights before the Supreme Court

of the United States have been exhausted. The remedy of mandamus is available only in extraordinary situations to correct a clear abuse of discretion or usurpation of judicial power. *In re Calmar, Inc.*, 854 F.2d 461, 464 (Fed. Cir. 1988). We find no clear abuse of discretion in the Director's determination in this case to suspend the matter pending possible further proceedings before the Supreme Court.

Accordingly,

IT IS ORDERED THAT:

The petition is denied.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk of Court